

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**WALKER LEE BROOKS**  
6605 E. Seaside Walk  
Long Beach, CA 90803

**Registered Nurse License No. 735276**

Respondent

Case No. 2012-233

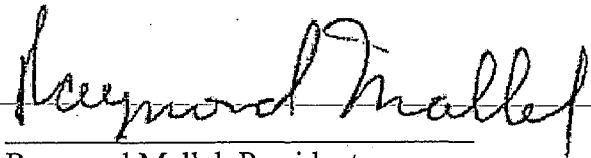
OAH No. L-2011120996

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 24, 2012.

IT IS SO ORDERED September 24, 2012.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 ARMANDO ZAMBRANO  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

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15 **Registered Nurse License No. 735276**

16 Respondent.  
17

Case No. 2012-233  
OAH No. L-2011120996

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceeding that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the  
22 Board of Registered Nursing, Department of Consumer Affairs, State of California. She brought  
23 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,  
24 Attorney General of the State of California, by Armando Zambrano, Deputy Attorney General.

25 2. Walker Lee Brooks ("Respondent") is represented in this proceeding by defense  
26 attorney Brian A. Newman, whose business address is: Law Offices of Brian A. Newman  
27 225 Avenue I, Redondo Beach, CA 90277.

28 //

3. On or about August 22, 2008, the Board of Registered Nursing, Department of Consumer Affairs, State of California ("Board"), issued Registered Nurse License No. 735276 to Respondent Walker Lee Brooks. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-233 and will expire on June 30, 2014, unless renewed.

## JURISDICTION

4. Accusation No. 2012-233 was filed before the Board of Registered Nursing, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 11, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 2012-233 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-233.

7. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to

present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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**CULPABILITY**

10. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-233.

11. Respondent agrees that his Registered Nurse License is subject to discipline and he agrees to be bound by the Board of Registered Nursing probationary terms as set forth in the Disciplinary Order below.

**CONTINGENCY**

12. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for the Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board of Registered Nursing regarding this stipulation and settlement, without notice to or participation by the Respondent. By signing the stipulation, Respondents understand and agree that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board of Registered Nursing considers and acts upon it. If the Board of Registered Nursing fails to adopt this stipulation as its Decision and Order, the stipulation shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board of Registered Nursing shall not be disqualified from further action by having considered this matter.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board of Registered Nursing may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Registered Nurse License No. 735276 issued to Respondent Walker Lee Brooks is revoked. However, the order of revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

SEVERABILITY CLAUSE. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Disciplinary Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of the Disciplinary Order, and all other applications thereof, shall not be affected. Each condition of this Disciplinary Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. Obey All Laws. Respondent shall obey all federal, state, and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. Comply with the Board's Probation Program. Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

1       3.   Report in Person. Respondent, during the period of probation, shall appear in person  
2 at interviews and meetings as directed by the Board or its designated representatives.

3       4.   Residency, Practice, or Licensure Outside of State. Periods of residency or practice  
4 as a registered nurse outside of California shall not apply toward a reduction of this probation  
5 time period. Respondent's probation is tolled, if and when he resides outside of California.  
6 Respondent must provide written notice to the Board within 15 days of any change of residency  
7 or practice outside the state, and within 30 days prior to re-establishing residency or returning to  
8 practice in this state.

9       Respondent shall provide a list of all states and territories where he has ever been licensed  
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
11 information regarding the status of each license and any changes in such license status during the  
12 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
13 license during the term of probation.

14       5.   Submit Written Reports. Respondent, during the period of probation, shall submit or  
15 cause to be submitted such written reports/declarations and verification of actions under penalty  
16 of perjury, as required by the Board. These reports/declarations shall contain statements relative  
17 to Respondent's compliance with all the conditions of the Board's Probation Program.  
18 Respondent shall immediately execute all release of information forms as may be required by the  
19 Board or its representatives.

20       Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
21 state and territory in which he has a registered nurse license.

22       6.   Function as a Registered Nurse. Respondent, during the period of probation, shall  
23 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
24 six (6) consecutive months or as determined by the Board.

25       For purposes of compliance with the section, "engage in the practice of registered nursing"  
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
27 non-direct patient care position that requires licensure as a registered nurse.

28       The Board may require that advanced practice nurses engage in advanced practice nursing

1 for a minimum of 24 hours per week for six (6) consecutive months or as determined by the  
2 Board.

3 If Respondent has not complied with this condition during the probationary term, and  
4 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
6 extension of Respondent's probation period up to one year without further hearing in order to  
7 comply with this condition. During the one-year extension, all original conditions of probation  
8 shall apply.

9 7. Employment Approval and Reporting Requirements. Respondent shall obtain prior  
10 approval from the Board before commencing or continuing any employment, paid or voluntary,  
11 as a registered nurse. Respondent shall cause to be submitted to the Board all performance  
12 evaluations and other employment related reports as a registered nurse upon request of the Board.

13 Respondent shall provide a copy of this Decision to her employer and immediate  
14 supervisors prior to commencement of any nursing or other health care related employment.

15 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
16 (72) hours after he obtains any nursing or other health care related employment. Respondent  
17 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
18 regardless of cause, from any nursing, or other health care related employment with a full  
19 explanation of the circumstances surrounding the termination or separation.

20 8. Supervision. Respondent shall obtain prior approval from the Board regarding  
21 Respondent's level of supervision and/or collaboration before commencing or continuing any  
22 employment as a registered nurse, or education and training that includes patient care.

23 Respondent shall practice only under the direct supervision of a registered nurse in good  
24 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
25 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
26 approved.

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Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. Employment Limitations. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool. Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified, and predetermined worksite(s) and shall not work in a float capacity.



1 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
2 request documentation to determine whether there should be restrictions on the hours of work.

3 10. Complete a Nursing Course(s). Respondent, at her own expense, shall enroll and  
4 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
5 months prior to the end of her probationary term.

6 Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
7 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
8 above required course(s). The Board shall return the original documents to Respondent after  
9 photocopying them for its records.

10 One course shall focus on the scope of practice for registered nurses in California. The  
11 second course shall focus on ethics for registered nurses.

12 11. Cost Recovery. Respondent shall pay the Board of Registered Nursing (\$3,200.00)  
13 as the reasonable cost of the investigation and enforcement of this case, pursuant to Business and  
14 Professions Code section 125.3. Respondent shall be permitted to pay these costs in a payment  
15 plan approved by the Board, with payments to be completed no later than three (3) months prior  
16 to the end of the probation term.

17 If Respondent has not complied with this condition during the probationary term, and  
18 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
19 condition, and if no other conditions have been violated, the Board of Registered Nursing, in its  
20 discretion, may grant an extension of Respondent's probation period up to one year without

21 further hearing in order to comply with this condition. During the one-year extension, all original  
22 conditions of probation will apply.

23 12. Violation of Probation. If Respondent violates the conditions of her probation, the  
24 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
25 and impose the stayed discipline (revocation) of Respondent's license.

26 If during the period of probation, an accusation or petition to revoke probation has been  
27 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
28 an accusation or petition to revoke probation against Respondent's license, the probationary

1 period shall automatically be extended and shall not expire until the accusation or petition has  
2 been acted upon by the Board.

3 13. License Surrender. During Respondent's term of probation, if he ceases practicing  
4 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
5 Respondent may surrender her license to the Board. The Board reserves the right to evaluate  
6 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
7 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
8 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
9 subject to the conditions of probation.

10 Surrender of Respondent's license shall be considered a disciplinary action and shall  
11 become a part of Respondent's license history with the Board. A registered nurse whose license  
12 has been surrendered may petition the Board for reinstatement no sooner than the following  
13 minimum periods from the effective date of the disciplinary decision:

14 (1) Two years for reinstatement of a license that was surrendered for any reason other  
15 than a mental or physical illness; or

16 (2) One year for a license surrendered for a mental or physical illness.

17 14. Physical Examination. Within 45 days of the effective date of this decision,  
18 respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician  
19 assistant, who is approved by the Board before the assessment is performed, submit an  
20 assessment of the respondent's physical condition and capability to perform the duties of a

21 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
22 medically determined, a recommended treatment program will be instituted and followed by the  
23 respondent with the physician, nurse practitioner, or physician assistant providing written reports  
24 to the Board on forms provided by the Board.

25 If respondent is determined to be unable to practice safely as a registered nurse, the licensed  
26 physician, nurse practitioner, or physician assistant making this determination shall immediately  
27 notify the Board and respondent by telephone, and the Board shall request that the Attorney  
28 General's office prepare an accusation or petition to revoke probation. Respondent shall

1 immediately cease practice and shall not resume practice until notified by the Board. During this  
2 period of suspension, respondent shall not engage in any practice for which a license issued by  
3 the Board is required until the Board has notified respondent that a medical determination permits  
4 respondent to resume practice. This period of suspension will not apply to the reduction of this  
5 probationary time period.

6 If the respondent fails to have the above assessment submitted to the Board within the 45-  
7 day requirement, respondent shall immediately cease practice and shall not resume practice until  
8 notified by the Board. This period of suspension will not apply to the reduction of this  
9 probationary time period. The Board may waive or postpone this suspension only if significant,  
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
11 by the respondent to obtain the assessment, and a specific date for compliance must be provided.  
12 Only one such waiver or extension may be permitted.

13 15. Participate In Treatment / Rehabilitation Program For Chemical Dependence.

14 Respondent, at his/her expense, shall successfully complete during the probationary period or  
15 shall have successfully completed prior to commencement of probation a Board-approved  
16 treatment/rehabilitation program of at least six months duration. As required, reports shall be  
17 submitted by the program on forms provided by the Board. If respondent has not completed a  
18 Board-approved treatment/rehabilitation program prior to commencement of probation,  
19 respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.  
20 If a program is not successfully completed within the first nine months of probation, the Board

21 shall consider respondent in violation of probation.

22 Based on Board recommendation, each week respondent shall be required to attend at least  
23 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,  
24 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.  
25 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be  
26 added. Respondent shall submit dated and signed documentation confirming such attendance to  
27 the Board during the entire period of probation. Respondent shall continue with the recovery plan  
28 recommended by the treatment/rehabilitation program or a licensed mental health examiner

1 and/or other ongoing recovery groups.

2 16. Abstain From Use Of Psychotropic (Mood-Altering) Drugs. Respondent shall  
3 completely abstain from the possession, injection or consumption by any route of all psychotropic  
4 (mood altering) drugs, including alcohol, except when the same are ordered by a health care  
5 professional legally authorized to do so as part of documented medical treatment. Respondent  
6 shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health  
7 professional, a report identifying the medication, dosage, the date the medication was prescribed,  
8 the respondent's prognosis, the date the medication will no longer be required, and the effect on  
9 the recovery plan, if appropriate.

10 Respondent shall identify for the Board a single physician, nurse practitioner or physician  
11 assistant who shall be aware of respondent's history of substance abuse and will coordinate and  
12 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-  
13 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
14 to the Board on a quarterly basis respondent's compliance with this condition. If any substances  
15 considered addictive have been prescribed, the report shall identify a program for the time limited  
16 use of any such substances.

17 The Board may require the single coordinating physician, nurse practitioner, or physician  
18 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
19 medicine.

20 17. Submit To Tests And Samples. Respondent, at his/her expense, shall participate in a  
21 random, biological fluid testing or a drug screening program which the Board approves. The  
22 length of time and frequency will be subject to approval by the Board. The respondent is  
23 responsible for keeping the Board informed of respondent's current telephone number at all  
24 times. Respondent shall also ensure that messages may be left at the telephone number when  
25 he/she is not available and ensure that reports are submitted directly by the testing agency to the  
26 Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by  
27 the program and the respondent shall be considered in violation of probation.

28 In addition, respondent, at any time during the period of probation, shall fully cooperate

1 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
2 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
3 hypnotics, dangerous drugs, or other controlled substances.

4 If respondent has a positive drug screen for any substance not legally authorized and not  
5 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
6 files a petition to revoke probation or an accusation, the Board may suspend respondent from  
7 practice pending the final decision on the petition to revoke probation or the accusation. This  
8 period of suspension will not apply to the reduction of this probationary time period.

9 If respondent fails to participate in a random, biological fluid testing or drug screening  
10 program within the specified time frame, the respondent shall immediately cease practice and  
11 shall not resume practice until notified by the Board. After taking into account documented  
12 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
13 Board may suspend respondent from practice pending the final decision on the petition to revoke  
14 probation or the accusation. This period of suspension will not apply to the reduction of this  
15 probationary time period.

16 18. Mental Health Examination. The respondent shall, within 45 days of the effective  
17 date of this decision, have a mental health examination including psychological testing as  
18 appropriate to determine his/her capability to perform the duties of a registered nurse. The  
19 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
20 practitioner approved by the Board. The examining mental health practitioner will submit a

21 written report of that assessment and recommendations to the Board. All costs are the  
22 responsibility of the respondent. Recommendations for treatment, therapy or counseling made as  
23 a result of the mental health examination will be instituted and followed by the respondent.

24 If respondent is determined to be unable to practice safely as a registered nurse, the licensed  
25 mental health care practitioner making this determination shall immediately notify the Board and  
26 respondent by telephone, and the Board shall request that the Attorney General's office prepare  
27 an accusation or petition to revoke probation. Respondent shall immediately cease practice and  
28 may not resume practice until notified by the Board. During this period of suspension,

respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. Therapy or Counseling Program. Respondent, at his/her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

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1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Brian A. Newman. I understand the stipulation and the effect it  
4 will have on my Registered Nurse License. I enter into this Stipulated Settlement and  
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
6 Decision and Order of the Board of Registered Nursing, Department of Consumer Affairs.

7  
8 DATED: 6.1.12

  
9 WALKER LEE BROOKS  
Respondent

10  
11 I have read and fully discussed with Respondent Walker Lee Brooks the terms and  
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
13 I approve its form and content.

14 DATED: 6.1.12

  
15 Brian A. Newman  
16 Attorney for Respondent

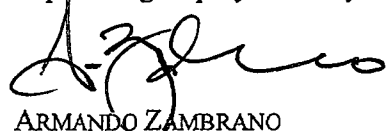
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Board of Registered Nursing, Department of Consumer  
20 Affairs.

21 Dated: 06/01/2012

Respectfully submitted,

22 KAMALA D. HARRIS  
23 Attorney General of California  
24 GLORIA A. BARRIOS  
Supervising Deputy Attorney General

25   
26 ARMANDO ZAMBRANO  
27 Deputy Attorney General  
Attorneys for Complainant

28 LA2010601380/51114694.docx/05.25.12

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**Exhibit A**

**Accusation No. 2012-233**



1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 ARMANDO ZAMBRANO  
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*Attorneys for Complainant*  
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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-233

13 **WALKER LEE BROOKS**  
6605 E. Seaside Walk  
Long Beach, CA 90803

**A C C U S A T I O N**

14 **Registered Nurse License No. 735276**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about August 22, 2008, the Board of Registered Nursing issued Registered  
23 Nurse License Number 735276 to Walker Lee Brooks ("Respondent"). The Registered Nurse  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on June 30, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"), under  
28 the authority of the following laws. All section references are to the Business and Professions

Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides in pertinent part:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code Section 2700 et seq.)]. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein."

5. Section 2764 of the Code provides:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

6. Section 118(b) of the Code provides, in pertinent part:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

### **STATUTORY PROVISIONS**

7. Section 490 of the Code provides in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code..."

1 8. Section 493 of the Code provides:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a board  
3 within the department pursuant to law to deny an application for a license or to  
4 suspend or revoke a license or otherwise take disciplinary action against a person  
5 who holds a license, upon the ground that the applicant or the licensee has been  
6 convicted of a crime substantially related to the qualifications, functions, and duties  
7 of the licensee in question, the record of conviction of the crime shall be conclusive  
8 evidence of the fact that the conviction occurred, but only of that fact, and the board  
9 may inquire into the circumstances surrounding the commission of the crime in  
10 order to fix the degree of discipline or to determine if the conviction is substantially  
11 related to the qualifications, functions, and duties of the licensee in question.

12 As used in this section, "license" includes "certificate," "permit," "authority," and  
13 "registration."

14 9. Section 2761 of the Code provides in pertinent part:

15 "The board may take disciplinary action against a certified or licensed nurse or  
16 deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the following:"

18 "...  
19 "(f) Conviction of a felony or of any offense substantially related to the  
20 qualifications, functions, and duties of a registered nurse, in which event the record  
21 of the conviction shall be conclusive evidence thereof."

22 10. Section 2762 of the Code states in pertinent part::

23 "In addition to other acts constituting unprofessional conduct within the meaning of  
24 this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
25 licensed under this chapter to do any of the following:"

26 "...  
27 "(b) Use any controlled substance as defined in Division 10 (commencing with  
28 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
device as defined in Section 4022, or alcoholic beverages, to an extent or in a  
manner dangerous or injurious to himself or herself, any other person, or the public  
or to the extent that such use impairs his or her ability to conduct with safety to the  
public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or  
self-administration of any of the substances described in subdivisions (a) and (b) of  
this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof."

11. Section 2765 of the Code provides:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere  
made to a charge substantially related to the qualifications, functions and duties of a  
registered nurse is deemed to be a conviction within the meaning of this article.  
The board may order the license or certificate suspended or revoked, or may  
decline to issue a license or certificate, when the time for appeal has elapsed, or the  
judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a  
subsequent order under the provisions of Section 1203.4 of the Penal Code  
allowing such person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
2 information or indictment."

3 **REGULATORY PROVISIONS**

4 12. California Code of Regulations, Title 16, section 1444, states, in pertinent part:

5 "A conviction or act shall be considered to be substantially related to the qualifications,  
6 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
7 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
8 safety, or welfare..."

9 13. California Code of Regulations, title 16, section 1445(b) provides in pertinent part:

10 "(b) When considering the suspension or revocation of a license on the grounds that  
11 a registered nurse has been convicted of a crime, the board, in evaluating the  
12 rehabilitation of such person and his/her eligibility for a license will consider the  
13 following criteria:

- 14 (1) Nature and severity of the act(s) or offense(s).  
15 (2) Total criminal record.  
16 (3) The time that has elapsed since commission of the act(s) or offense(s).  
17 (4) Whether the licensee has complied with any terms of parole, probation,  
18 restitution or any other sanctions lawfully imposed against the licensee.  
19 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4  
20 of the Penal Code.  
21 (6) Evidence, if any, of rehabilitation submitted by the licensee."

22 **COST RECOVERY**

23 14. Section 125.3 provides, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licentiate found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case.

27 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

28 15. Darvocet contains a combination of Propoxyphene and Acetaminophen.  
Propoxyphene is a narcotic pain reliever. Darvocet is a Schedule IV controlled substance per  
California Health & Safety Code Section 11057(c)(2). In November 2010, the United States  
Food and Drug Administration (FDA) withdrew all medications containing Propoxyphene due to  
concerns about dangerous cardiac side effects.

16. Vicodin and Lortab are brand names for a narcotic, which contains a combination of Acetaminophen (aka APAP) and Hydrocodone. This narcotic is generally prescribed to treat moderate to severe pain. It is designated as a Schedule III controlled substance per Health and Safety Code section 11056(e)(4).

**FIRST CAUSE FOR DISCIPLINE**

**(Conviction of a Substantially Related Crime)**

17. Respondent's registered nurse license is subject to discipline under Code sections 490 and 2761(f), in accordance with California Code of Regulations, Title 16, section 1444, for unprofessional conduct because the Respondent has been convicted of a crime or an offense substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about July 13, 2010, in the Superior Court of the State of California, County of Inyo, the Respondent entered a no contest plea and was convicted of the crime of Driving with a Blood Alcohol Content of .08 Percent or More, in violation of Vehicle Code section 23152(b), a misdemeanor. The Respondent also admitted a special allegation of Excessive Blood Alcohol of .15 percent or more, in violation of Vehicle Code section 23578. The Respondent was sentenced to three (3) years probation, ordered to serve 5 days in jail, and complete a first-offender alcohol-counseling program. (*People v. Walker Lee Brooks*, Superior Court of the State of California, County of Inyo, Case No. CRTR-100050478-002, July 13, 2010).

b. The facts and circumstances surrounding the criminal conviction are that on May 19, 2010, the California Highway Patrol observed the Respondent driving at a speed over 85 miles per hour. During the traffic stop, the police noticed the Respondent displayed red watery eyes, emitted the odor of alcohol, and had slow and lethargic movement and speech. The Respondent was asked to perform field sobriety tests, which he failed to perform as explained and demonstrated. The Respondent provided two breath samples at the scene, which indicated Blood Alcohol Content (BAC) results of .215 and .209. The Respondent admitted to police that he had been drinking a beer while driving. A search of the vehicle revealed one-half full beer and three empty beer containers. The police also found .3 grams of marijuana, one (1) Vicodin pill, and

1 five (5) Darvocet pills.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Unprofessional Conduct – Alcohol Related Criminal Conviction)**

4 18. Respondent is subject to disciplinary action under Section 2761(a) of the Code on the  
5 grounds of unprofessional conduct, as defined by Code section 2762(c), because the Respondent  
6 was convicted of a crime involving the prescription, consumption, or self-administration of a  
7 controlled substance, dangerous drug, or alcoholic beverage. The circumstances are as follows:

8 a. Complainant refers to, and by this reference incorporates, the allegations set forth  
9 above in paragraph 17 inclusive, as though set forth fully herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct - Dangerous Use of Alcohol Beverages)**

12 19. Respondent is subject to disciplinary action under Section 2761(a) of the Code on the  
13 grounds of unprofessional conduct, as defined in Code section 2762(b), because the Respondent  
14 used controlled substances, dangerous drugs, or alcoholic beverages, to an extent or in a manner  
15 dangerous or injurious to himself, any other person, or the public. The circumstances are as  
16 follows:

17 a. Complainant refers to, and by this reference incorporates, the allegations set forth  
18 above in paragraph 17 inclusive, as though set forth fully herein.

19 **DISCIPLINE CONSIDERATIONS**

20 20. To determine the degree of discipline, if any, to be imposed on Respondent,  
21 Complainant alleges the following prior criminal convictions:

22 a. On or about August 18, 2004, in the Superior Court of the State of California, County  
23 of Orange, the Respondent entered a guilty plea and was convicted of the crime of Possession of  
24 Marijuana, 28.5 grams or less, in violation of Health and Safety Code section 11357(b), a  
25 misdemeanor. (*People v. Walker Lee Brooks*, Superior Court of the State of California, County of  
26 Orange, Case No. 513553 MA, August 18, 2004). The record of the criminal proceeding is  
27 incorporated as if fully set forth.

b. On or about January 16, 2004, in the Superior Court of the State of California, County of Orange, the Respondent was convicted of the crimes of Possession of Marijuana, 28.5 grams or less, in violation of Health and Safety Code section 11357(b), a misdemeanor; and Disturbing the Peace in violation of Penal Code section 415(2), a misdemeanor. The Respondent was sentenced to one (1) year of probation. (*People v. Walker Lee Brooks*, Superior Court of the State of California, County of Orange, Case No. 03NM14442, January 16, 2004). The record of the criminal proceeding is incorporated as if fully set forth.

## PRA YER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number 735276 issued to Respondent Walker Lee Brooks;

2. Ordering Respondent Walker Lee Brooks to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: October 11, 2011

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
State of California  
*Complainant*

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